

**COPY**

2017-08670L  
SF-J.W.M.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

JAMES BENBOW,

Plaintiff,

-against- Civ. No.: 17-CV-6457 (EK) (LB)

CITY OF NEW YORK; POLICE OFFICER BRIAN W.  
FEELEY; POLICE OFFICER MATTHEW J. ROSIELLO;  
POLICE OFFICER KENNETH L. ANDERSON; SERGEANT  
WILLIAM A. DAIB; POLICE OFFICER SHANIEL J.  
MITCHELL; and POLICE OFFICER STEPHEN J. MINUCCI,

Defendants.

VIDEOCONFERENCE VIA ZOOM  
Conducted by:  
LEX REPORTING SERVICE  
160 Broadway  
New York, New York

November 19, 2020  
2:05 p.m.

**DEPOSITION of DETECTIVE RUBEN CESPEDES,**

a Non-Party Witness in the above-entitled  
action, held remotely via Zoom videoconference,  
pursuant to Order, taken before Tania C.  
Pedrosa, a shorthand reporter and Notary Public  
within and for the State of New York.

1

2

2       A p p e a r a n c e s :

3

4           THE ABOUSHI LAW FIRM, PLLC  
5           Attorneys for Plaintiff  
6           1441 Broadway, Fifth Floor  
7           New York, New York 10018  
8           BY:     AYMEN A. ABOUSHI, ESQ.

9

10          JAMES E. JOHNSON, ESQ.  
11          Corporation Counsel  
12          Attorney for Defendants  
13          100 Church Street  
14          New York, New York 10007  
15          BY:     JOSHUA A. WEINER, ESQ.  
16          FILE No.: 2017-066702

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

3

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED  
by and between the attorneys for the  
respective parties herein, that filing,  
sealing and certification be and the  
same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the  
form of the question shall be reserved  
to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed  
and sworn to before any officer  
authorized to administer an oath, with  
the same force and effect as if signed  
and sworn to before the Court.

4

THE REPORTER: This deposition is being conducted via Zoom videoconferencing. All parties present are appearing remotely and are confirming that they can hear and see through the video without any technical issues.

Would counsel and the witness please confirm.

THE WITNESS: Yes.

MR. WEINER: Confirmed.

MR. ABOUSHI: We can confirm  
for now given what happened  
earlier. It might be touch and  
go.

THE REPORTER: Before I swear in the witness, I will ask counsel to stipulate on the record that due to the national emergency pandemic, the court reporter may swear in the deponent even though they are not in the physical presence of the

1

5

2

deponent, and that there is no  
objection to that at this time,  
nor will there be an objection to  
it at a future date.

3

MR. WEINER: Confirmed.

4

MR. ABOUSHI: Yes, agreed.

5

THE REPORTER: And, Counsel,  
can you represent that to the  
best of your knowledge and  
belief, the witness appearing  
today via videoconference is  
indeed Officer Cespedes?

6

MR. WEINER: Yeah.

7

Detective Ruben Cespedes is the  
-- is the witness today to the  
best of my knowledge.

8

R U B E N C E S P E D E S, the witness  
herein via videoconference, having  
first been duly sworn by a Notary  
Public of the State of New York, was  
examined and testified as follows:

9

EXAMINATION BY

10

MR. ABOUSHI:

11

Q State your name for the record,

12

1

R. Cespedes

52

2

first spoke to them in regards --

3

Q Okay.

4

A -- to the initial...

5

Q Okay. Were you working on the  
night of the incident?

7

A I was actually leaving work.

8

Q Okay. And what was your tour of  
duty that day?

10

A I don't remember, sir.

11

Q Okay. Did you have a regular  
tour of duty when you were a FIO?

13

A You -- yeah. You kind of went  
back and forth depending on what you were  
doing. So some days you worked late and some  
days you did -- some days you did 11:00 to  
7:00, some days 12:00 to 8:00. It depended  
on the day -- what you were doing that day.

19

Q And you testified that that -- on  
that day you were leaving work?

21

A Yes.

22

Q Okay. And what happened when you  
were leaving work?

24

A I received a phone call from a  
particular person by the name of Jason

1 R. Cespedes 53

2 Marshall.

3 Q And how did you know Jason  
4 Marshall?

5 A I knew him from the precinct. He  
6 was -- at the time he was an auxiliary at the  
7 precinct.

8 Q Okay. And did you give him your  
9 phone number?

10 A Yeah. I know him. I know him,  
11 yeah.

12 Q How do you know him?

13 A Because I said he was an  
14 auxiliary at the time here and, like I said,  
15 I know him from just a regular conversation,  
16 you know.

17 Q So you know him from work or you  
18 know him from outside of work or something  
19 else?

20 A Kind of both things. Because,  
21 like I said, I was an auxiliary myself so --  
22 prior to becoming a police officer so, yeah,  
23 I -- I -- you know, I -- I would say I know  
24 him.

25 Q Okay. And did you hang out with

1 R. Cespedes 90

2 like, whether I took it and put it into my  
3 phone or he sent it to me or I sent it to  
4 him, I don't --

5 Q Prior to the night that  
6 Mr. Benbow was shot, did you communicate with  
7 Mr. Marshall over the phone or through text  
8 messages?

9 MR. WEINER: Objection.

10 A I don't recall.

11 Q So he calls you as you're leaving  
12 work, correct? That's your testimony?

13 A Yes.

14 Q And what does he say? Do you  
15 remember?

16 A He said he was -- that a guy  
17 tried to get into the club that he was  
18 working at with a gun and he turned him away  
19 or something like that.

20 Q Okay. Did he say anything else?

21 A That's as much as I could  
22 remember right now.

23 Q What, if anything, happened after  
24 that conversation? What did you do?

25 A Say again.

1

R. Cespedes

91

2

Q What did you do after that

3

conversation? Was that it? I mean, he said  
someone tried to get in the club with a gun  
and turned them away. He hung up? Is that  
what happened?

7

A I told him I'll call him back.

8

Q Okay. What did you do next?

9

A I called my boss, Sergeant Jones.

10

Q And what did you tell him?

11

A I told him basically what it was,  
you know, what Jason told me. And he told me  
to reach out to Sergeant Diab.

14

Q Did you do that?

15

A For some reason I wasn't able to  
get in contact with Sergeant Diab but I spoke  
to Mitchell who was on Diab's team and  
basically Mitchell was with Diab.

19

Q How did you get ahold of  
Mitchell?

21

A I called Mitchell.

22

Q How did you get his number?

23

A I've had -- I have Mitchell's  
number. I was a FIO.

25

Q Just within the context of your

1

R. Cespedes

92

2

duty as the FIO?

3

A        Yeah. You have the guys that  
work anti-crime who deals with these -- you  
have their numbers.

6

Q        Okay. And so you called Mitchell  
and told him what?

8

A        I don't remember exactly my words  
to Mitchell but I do remember telling him,  
"Do you mind if I gave your number to Jason?"

11

Q        And what did he say?

12

A        He says okay.

13

Q        All right. And what did you do  
after your phone call with Mitchell?

15

A        I -- I sent Jason Mitchell's  
number to call him.

17

Q        Okay.

18

A        Either I sent it -- I don't  
remember if I sent it via text message or I  
called Jason and told him. But either way, I  
relayed the message to Jason to get in  
contact with Mitchell.

23

Q        And were you using a work-issued  
phone?

25

A        No. My personal phone.